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Before The
POSTAL RATE COMMISSION
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Filing Online

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Docket No. RM2001-2

OFFICE OF THE CONSUMER ADVOCATE
COMMENTS ON PROPOSED FILING ONLINE PROCESS
(July 9, 2001)

The Office of the Consumer Advocate ("OCA") hereby files these comments pursuant to the Commission's Order No. 1317, "Notice and Order Concerning Electronic Filing Procedures" ("Notice").¹ In that order, the Commission invited comments on the Commission's proposed Filing Online service to assist in the discussion at the technical conference to be held July 11, 2001. The OCA fully supports the objectives and the substance of the proposed process. The following comments include suggestions for additions to the procedures and request clarification as to the Commission's intentions for implementing the proposed procedures, all for discussion at the scheduled technical conference.

The OCA believes the time is ripe for expanding the electronic filing process. Some electronic filing procedures have already been initiated to a significant extent in previous cases, and expansion of the electronic process will clearly provide significant cost savings and convenience if widely adopted by the Postal Service and the parties. The OCA encourages the Commission to develop Filing Online in an open and cooperative process that will encourage all parties—and in particular the Postal Service—to adopt the new approach.

¹ *Filing Online*, Docket No. RM2001-2, "Notice and Order Concerning Electronic Filing Procedures," June 13, 2001.

The OCA proposes Commission Email notification of online filings

The OCA offers a suggestion for the further convenience of the parties to better insure notification of electronic filings. As the OCA understands the proposal, electronic filings would be placed on the Commission's website available to the parties and the public. The OCA suggests that the Commission also create, upon the initiation of a case, an Email mailing list comprised of the intervenors and participants in the proceeding and their representatives. Then, when an electronic filing (and perhaps even a non-electronic filing) is received at the Commission (or once daily in larger cases), the Commission's computer would automatically Email the intervenors and participants on the list notifying them of each filing and the time it is placed upon the website. This would eliminate the need for each intervenor to continuously access the website to determine if new filings have been posted. This Email procedure would enable a more efficient use of resources as it would ease the burden on all parties and participants of continuously monitoring the Commission's website during an active case.

The OCA is suggesting that the Email process be provided by the Commission only for the convenience of the parties, and not to remove the duty of the parties to check the Commission's website for all filings. In other words, if for some reason the Email was not sent to a particular party through administrative error, that would not necessarily relieve the recipient of the obligation of meeting filing dates under the Commission's rules. However, this is not an onerous burden as it is the burden at all times under the Commission's current proposal, whereas the OCA suggestion would eliminate the need to rigorously monitor the Commission's website and thus reduce the need to sign on to the Commission's website frequently.

The OCA suggests that this further service for the benefit of the parties would be relatively easy for the Commission to establish and would be a great convenience to the parties. Indeed, if "the need to serve parties [is to be] virtually, if not entirely eliminated," ² there should be a system in place for proactive notice to parties of filings

² Order No. 1317 at .2.

available through the Commission's website. Without such notification, parties may insist on receiving hard copy service to minimize the chance of missing a filing.

Planned effective date of rule and proposal for task force or working group

The OCA notes that the proposal does not discuss the planned date for implementation of the Filing Online procedures in its Notice. Hopefully, the Commission staff will explain at the technical conference in greater detail the particular planned effective date of the procedures and indicate whether it intends to implement the procedures prior to or during the next major rate case. It appears to the OCA at this time that it is unrealistic to plan for full implementation of Filing Online rules before the anticipated rate filing in the fall. These comments and those of the Postal Service already filed³ indicate several areas that need careful consideration by all of the stakeholders, inasmuch as a procedure that simplifies the process for the Commission could well have the opposite effect on some of the Account Holders. The OCA proposes that the nature of the problems warrants the Commission establishing a task force or working group, as necessary, to discuss the issues in the formative stages. The task force members should include members of the Commission staff, the OCA, the Postal Service and appropriate representatives from the mailer groups.

Who will be the Account Holders where there are multiple representatives?

The Attachment (page 2 of 7) includes a sample Account Holder application form and the text states that "Each person desiring to submit an electronic filing must complete and return the application form...." The form only needs to be submitted once. The instructions appear to be simple enough except they do not discuss whether, when multiple persons represent the same party (as where several attorneys represent the same party), it would be desirable that they have the same password for

³ "Preliminary Comments of United States Postal Service on Proposed Electronic Filing Procedures," July 6, 2001.

a particular party they represent in order to avoid confusion. Also, as for the OCA and the Postal Service, would each attorney filing documents have a separate password?

Expedited handling of new login names and passwords

The Attachment (page 2 of 7) indicates that new Account Holders will receive a login name and password by mail. This process may become cumbersome at the onset of the first rate case when many new Account Holders are likely to apply within a very short period of time. Moreover, those applying at the onset of a case would most likely prefer to have immediate access to electronic filing in order to file very early in the case interrogatories or procedural motions. The OCA submits that probably some provision to obtain a login name and password more immediately where time is of the essence would be desirable.

Conversion of files to PDF

The Attachment (page 5 of 7) discusses conversion of files to a PDF format and seems to assume that all of the Filing Online files will be retained only in the PDF or RTF formats. The Notice does not indicate whether the Commission would also retain the original incoming file in its native format on its system for reference if the PDF file proves inadequate. The Notice also does not discuss the desirability of retaining non-text files in their native format and perhaps not even attempting to convert them to PDF files.

The OCA supports the Postal Service's comments that many collateral files such as Excel spreadsheets, some SAS files, certain scanned materials, and particularly unusual hard-copy materials do not lend themselves to conversion to PDF files. The Notice indicates (page 3) that formats other than PDF may be attached to PDF filings but does not indicate how the Commission intends to handle such attachments; for instance, whether the Commission will attempt to convert them to another format. This issue should be discussed at the technical conference. At present, many documents

submitted electronically are posted on the website in both their native format and as a PDF file. The OCA recommends that electronically filed documents be posted in their native format as well as PDF and RTF under Filing Online.

Another issue for discussion is whether the Commission contemplates any size limitations on files that are uploaded or downloaded.

Compatibility of downloaded files with participant's software and internet service

The OCA agrees with the Postal Service comments that the Notice assumes files will be downloaded to computers using Windows and Internet Explorer without discussing or apparently recognizing the possibility that participants operating on other software or internet browsers may encounter difficulties with downloading. The technical conference should address this potential problem, particularly as it affects individual participants who may not have the flexibility to switch to the prescribed software and internet service. If possible, Filing Online should support other systems, particularly Netscape users.

Identifying files for uploading

The Attachment (page 5 of 7) indicates that, upon prompting, the Account Holder will select the documents on the Account Holder's system to be converted from the Account Holder's local system. The Notice does not discuss whether the Account Holder must use any particular identifier to reference the files in the Account Holder's system to insure the Commission's system will recognize the files and upload them properly. Will Account Holders be given guidelines for naming their documents? Will the Commission assign unique names when documents are posted on the website? Will any users encounter name-length restrictions (*i.e.*, eight characters with a three character extension)? Will the Commission place any "cookies" on Account Holders' computers when uploading documents from those computers?

Batch uploading is desirable; metadata should be
downloadable and uploadable with batches

The OCA supports the Postal Service suggestion that batch uploading of multiple files would be useful. The OCA also agrees with the Postal Service that metadata which identifies documents should be easily downloaded by participants and that metadata should be includable as part of the uploading batch process.

Effect of contact by Dockets regarding Filing Online problems

The Attachment (page 6 of 7) states that Dockets will check the document information and attached files and that, if there is a problem, the Account Holder will be contacted. Some consideration should be given to the timing of such contacts by Dockets and the effect it may have upon the timeliness of filings. Parties should have an opportunity to correct problems related to the Filing Online process so that filings would still be deemed timely. At the same time, it is important that any delay in completing a filing will not prejudice other parties in responding to filings that are not posted on the website by the original due date. To avoid such prejudice, delays resulting from error correction should automatically extend related deadlines.

Is software required by Account Holders to
make corrections to Commission generated PDF files?

The Notice indicates participants may use the Commission's website to create PDF documents. The Attachment to the Notice (page 5 of 7) states that after conversion, the Account Holder may download and review the PDF(s) produced. Although the Attachment states Account Holders are not required to purchase anything to participate in Filing Online, the Attachment does not explain whether, in order to make corrections to the PDF file converted on the Commission's system, the Account Holder must have available Adobe Acrobat software on its own system to make necessary corrections to a Commission converted PDF file.

Procedure for inadvertent or premature filing

The Attachment (page 7 of 7) notes that once a filing is submitted by clicking the "Submit" button, the file may no longer be accessed. The OCA suggests that some discussion would be desirable at the technical conference and in any future order of the Commission as to the procedures parties should follow in the event the "Submit" button is inadvertently or prematurely clicked.

How will signed originals and certificates of service be handled?

The Filing Online proposal would permit parties to use the Commission's website to create PDF documents. If parties submit documents in Word format for conversion to PDF, it appears they would not be able to submit a signed original in the Word format. Indeed, it is not clear whether the Commission contemplates eliminating the need for original signatures (which would probably not be appropriate at the current level of security and for other reasons), or, alternatively, whether the Commission anticipates parties will retrieve a Commission generated PDF file and modify it by inserting appropriate signatures. Also, certificates of service are currently required by the rules. It is not clear whether and how those certificates would be handled. The Commission's current rules regarding the filing of signed original documents and certificates of service will need amendment to recognize Filing Online procedures.

How will confidential documents be handled?

The Notice does not discuss how Filing Online will handle documents for which confidential treatment is claimed, or documents that are filed pursuant to the terms of a protective order. Parties may be reluctant to commit such documents to Filing Online without explicit provision for protection of information. If confidential documents are filed electronically, the Commission must establish a procedure to ensure that confidential documents so filed will not be placed on that portion of the website generally available (if indeed, they should be on the website at all) until higher levels of

security are established with a certainty. An inadvertent error in placing confidential documents on the website could cause financial harm if documents are released to the wrong parties. Moreover, unless security is adequate, confidential documents on the website might be subject to unauthorized inspection by persons hacking into the site. For now, the OCA believes that confidential documents should be filed as hard copy only, rather than electronically until the security of all documents is more certain.

A role for digital signatures and secure electronic transmission services

As the Postal Service notes at pages 6-7 of its Preliminary Comments, Filing Online presents various issues relating to security and authenticity. Perhaps one approach to these issues would be to use existing third-party technology in conjunction with Filing Online. For example, the Postal Service offers PosteCS service, under which a customer can securely upload documents to a Postal Service secure server for retrieval by intended recipients. The service includes an electronic postmark. United Parcel Service offers Document Exchange, a similar secure electronic transmission service.

The Postal Service also offers digital signatures. Rather than relying solely upon use of a login name and password, or the insertion of an image of a signature in a PDF document, the Commission could require that Filing Online documents contain a digital signature in accordance with the Electronic Signature in Global and National Commerce Act (E-Sign Act). As noted, the Postal Service also offers Electronic Postmark, which provides proof a document existed at a certain date and time, detects subsequent change, and affords the sender legal protections of the Postal Service.

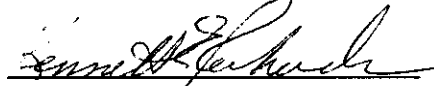
The technical conference should consider alternative means of handling security and authenticity through these services and processes. The Postal Service should be requested to suggest how its suite of electronic services (and comparable services by other providers) could facilitate the Filing Online process.

Conclusion

The OCA supports the movement to wide-spread electronic filing. If the processes are developed with responsible input from the Postal Service and interested parties, it is more likely that Filing Online will succeed. The OCA offers these comments as a starting point for the discussion necessary to move Filing Online forward, and stands ready to work with the Commission, the Postal Service, and other parties to develop procedures for successfully implementing the Commission's Filing Online proposal.

Respectfully submitted,

OFFICE OF THE CONSUMER ADVOCATE



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CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the rules of practice.



KENNETH E. RICHARDSON

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